

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.10520 OF 2007

ORAL ORDER:

The writ petitioner and the respondents 1 and 2 are holding quarry leases over different extents of land situated in various survey numbers of Chimakurthy village. It appears that there is a boundary dispute between the parties, which resulted in the order dated 26.4.2007 passed by the Revenue Divisional Officer, Ongole under Section 145 of the Code of Criminal Procedure restraining both the parties from interfering with the disputed area in Sy.Nos.576 and 581. The petitioner alleges that taking advantage of the fact that the order under Section 145 Cr.P.C., was only in respect of two survey numbers, the 1st respondent has commenced mining operations on the northern and western part of the petitioner's land in Sy.No.960 and in spite of the complaints made, the respondents 3 to 6 failed to take action. Hence, this writ petition with the following prayer:

“ It is therefore just and necessary that this Hon'ble Court do issue a Writ of Mandamus or other appropriate Writ, order or direction to the Revenue and Mines Department, to conduct Joint survey of all the common boundaries of the areas granted for mining to the petitioner and the respondent 1 and 2 in Sy.Nos.576, 933, 960 and 581 with the necessary sophisticated equipment more particularly with Electronic Total Station Device in association with a suitably qualified Commissioner to be appointed by the Hon'ble in the presence of the representatives of the petitioner's company and the representatives of 1st and 2nd respondents and officials of Department of Mines & Geology and direct payment by the 1st respondent of the value of granite removed from the area of the petitioner ...”

A counter affidavit has been filed by the respondents 1 and 2 denying the alleged illegal mining operations and stating that as a matter of fact, a survey was conducted on 12.4.2007 to resolve the boundary dispute by the Assistant Director of Mines & Geology, but the

same could not be completed since the petitioner did not cooperate.

Be that as it may, in the counter affidavit filed by the 5th respondent-Assistant Director of Mines & Geology, it is stated that a joint survey with the officials of the Department of Mines & Geology and the Department of Revenue has already been proposed to be conducted and keeping in view the nature of the land in question, it has also been decided to conduct the survey using sophisticated equipment viz., ETS instrument which is available with the Assistant Director of Survey and Land Records. Accordingly, a letter, dated 3.5.2007 was addressed to the Assistant Director of Survey and Land Records, Ongole to depute Survey Officer along with ETS instrument. It is also stated in the counter affidavit that the comprehensive survey will be conducted to demarcate the exact boundary line between the lease held by the petitioner and the respondents 1 and 2 and basing on the survey report necessary action will be taken with regard to the alleged illegal mining operations.

Having regard to the counter affidavit filed by the 5th respondent stating that steps have already been taken to conduct a joint survey, it is not necessary for this Court to express any opinion as to the rival claims made by the parties with regard to the area covered by their respective leases. It is also brought to my notice that the survey which was originally proposed to be conducted on 13.7.2007 has been postponed to 17.7.2007 and due notice has been served on all the parties concerned.

So far as the lands which require such joint survey is concerned, the Director of Mines & Geology in his proceedings dated 25.4.2007, specified the quarries which are having common boundary under dispute as under:

- “1. 933/1(P) & (P) Chimakurthy
2. 576/2 of Chimakurthy
3. 576/P, 981/P Chimakurthy village
4. 933/1&2, 960 of Chimakurthy
5. 581/P Chimakurthy

6. 581/P Chimakurthy”

The same has also been reiterated in the counter affidavit filed by the Assistant Director of Mines & Geology.

Accordingly, the writ petition is disposed of with a direction to the respondents 3 to 7 to conduct the joint survey of the disputed land situated in the survey numbers mentioned above and to take appropriate further steps following due process of law. Till such time the interim order granted by this Court dated 16.5.2007 prohibiting both the parties from carrying on any mining operations within 25 metres from the boundary in dispute and not to carry away any material from the disputed area shall continue.

So far as the further relief claimed by the petitioner for payment of value of the granite allegedly removed by the 1st respondent is concerned, the petitioner is granted liberty to work out the appropriate remedy available under law before the proper forum.

The writ petition is accordingly, disposed of. No costs.

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G. ROHINI, J.

12th July, 2007.

Note: Issue CC by tomorrow.

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THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.10520 OF 2007

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12th July, 2007

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Between:

M/s Anand Granite Exports (P) Ltd.,
58-12-2, Municipal High School Road,
Santhapet, Ongole – 523 001, represented by it's
Director Dr. P. Anand. ... Petitioner.

And

M/s Veerabhadra Minerals (P) Ltd.,
101, Sri Sai Sannidi, Hindi Nagar,
Panjagutta, Hyderabad,
represented by its Managing Director,
G.V. Pratap Reddy and others. .. Respondents.

